

109TH CONGRESS
1ST SESSION

H. R. 1142

To protect children from exploitive child modeling, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2005

Mr. FOLEY (for himself, Mr. CRAMER, Mr. DAVIS of Kentucky, Mrs. MCCARTHY, Mr. McNULTY, Mr. FORBES, Mr. PAYNE, Mr. GENE GREEN of Texas, Mr. SIMMONS, Mr. CANNON, and Mr. CALVERT) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect children from exploitive child modeling, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Modeling Exploi-
5 tation Prevention Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The use of children in the production of
2 exploitive child modeling, including on Internet
3 websites, in photographs, films, videos, and other
4 visual depictions, is a form of child abuse that can
5 result in physical and psychological harm to the chil-
6 dren involved.

7 (2) Exploitive child modeling is different from
8 other, legitimate, child modeling because exploitive
9 child modeling involves marketing the child himself
10 or herself in lascivious positions and acts, rather
11 than actually marketing products to average Amer-
12 ican consumers.

13 (3) The purpose of exploitive child modeling is
14 to satisfy the demand of pedophiles.

15 (4) Unlike legitimate child modeling, exploitive
16 child modeling may involve a direct and personal
17 interaction between the child model and the
18 pedophile. The pedophile often knows the child's
19 name and has a way of communicating with the
20 child.

21 (5) The interaction between the exploited child
22 model and the pedophile can lead the child to trust
23 pedophiles and to believe that it is acceptable and
24 safe to meet with pedophiles in private.

1 (6) Over 70 percent of convicted pedophiles
2 have used child pornography or exploitive child mod-
3 eling depictions to whet their sexual appetites. Be-
4 cause children are used in its production, exploitive
5 child modeling can place the child in danger of being
6 abducted, abused, or murdered by the pedophiles
7 who view such depictions.

8 (7) These exploitive exhibitions of children are
9 unacceptable by social standards and lead to a direct
10 harm to the children involved.

11 **SEC. 3. EMPLOYMENT IN EXPLOITIVE CHILD MODELING.**

12 (a) PROHIBITION ON EMPLOYMENT.—Section 12 of
13 the Fair Labor Standards Act of 1938 (29 U.S.C. 212)
14 is amended by adding at the end the following:

15 “(e)(1) No employer may employ a child model in
16 exploitive child modeling.

17 “(2) Notwithstanding section 16(a), whoever violates
18 paragraph (1) shall be fined under title 18 or imprisoned
19 not more than 10 years, or both.

20 “(3)(A) In this subsection, the term ‘exploitive child
21 modeling’ means modeling involving the use of a child
22 under 17 years old for financial gain without the purpose
23 of marketing a product or service other than the image
24 of the child.

1 “(B) Such term applies to any such use, regardless
 2 of whether the employment relationship of the child is di-
 3 rect or indirect, or contractual or noncontractual, or is
 4 termed that of an independent contractor.

5 “(C) Such term does not apply to an image which,
 6 taken as a whole, has serious literary, artistic, political,
 7 or scientific value.”.

8 (b) OPPRESSIVE CHILD LABOR.—Section 3(l) of such
 9 Act (29 U.S.C. 203(l)) is amended—

10 (1) by striking “(1) any” and inserting “(A)
 11 any”;

12 (2) by striking “(2) any” and inserting “(B)
 13 any”;

14 (3) by inserting “(1)” after “(l)”; and

15 (4) by adding at the end the following new
 16 paragraph:

17 “(2) Such term includes employment of a minor in
 18 violation of section 12(e)(1).”.

19 **SEC. 4. EXPLOITIVE CHILD MODELING OFFENSE.**

20 (a) IN GENERAL.—Chapter 110 of title 18, United
 21 States Code, is amended by inserting after section 2252A
 22 the following:

23 **“SEC. 2252B.**

24 Exploitive child modeling

1 “(a) IN GENERAL.—Except as provided in subsection
2 (b), whoever, in or affecting interstate or foreign com-
3 merce, with the intent to make a financial gain thereby,
4 displays or offers to provide the image of an individual
5 engaged in exploitive child modeling (as defined in section
6 12(e) of the Fair Labor Standards Act of 1938) shall be
7 fined under this title or imprisoned not more than 10
8 years, or both.

9 “(b) EXCEPTION.—This section does not apply to an
10 image which, taken as a whole, has serious literary, artis-
11 tic, political, or scientific value.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 at the beginning of chapter 110 of title 18, United States
14 Code, is amended by inserting after the item relating to
15 section 2252A the following:

“2252B. Exploitive child modeling.”.

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